

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-0296V

Filed: February 4, 2019

UNPUBLISHED

EKATERINA KOVTUN,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Tetanus, Diphtheria,  
acellular Pertussis (Tdap) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Glen Howard Sturtevant, Jr., Rawls Law Group, Richmond, VA, for petitioner.  
Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for  
respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On February 27, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered injuries, described as “debilitating pain, restricted range of motion, and adhesive capsulitis of her left shoulder and arm” caused-in-fact by the tetanus, diphtheria, and acellular pertussis (“Tdap”) she received on November 9, 2016. Petition at 1. Petitioner further alleges that she received her vaccination in the United States, that she suffered the residual effects of her injury for

---

<sup>1</sup> The undersigned intends to post this ruling on the United States Court of Federal Claims' website. **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished ruling contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

more than six months, and that neither she nor any other party has filed a civil action or received compensation for her injury, alleged as vaccine caused. *Id.* at ¶¶ 2, 19, 21. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 4, 2019, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent indicates that "[a]ccording to [his] assessment of petitioner's records, petitioner's medical course is consistent with SIRVA as defined in the Vaccine Injury Table." *Id.* at 3. Respondent further agrees that "based on the records as it stands, petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 3-4.

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master